



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 08 2019

UNITED PARCEL SERVICE

Mr. Michael Guadagno  
Mr. Bar-B-Q Products, LLC  
10 Hub Drive, Suite 101  
Melville, New York 11747

Re: Mr. Bar-B-Q Products, LLC  
Notice of Warning for Distribution of a Misbranded Pesticide Device  
Case File No. FIFRA-04-2019-8504

Dear Mr. Guadagno:

The U.S. Environmental Protection Agency has obtained evidence indicating that Mr. Bar-B-Q Products, LLC (hereinafter Mr. Bar-B-Q) appears to be in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). On or about March 14, 2019, Mallory Alexander International Logistics (hereinafter Mallory), the licensed customs broker for Mr. Bar-B-Q, submitted entry documents in the U.S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) system for the importation of a shipment of the pesticide device SkeeterVac, which included 500 boxes of Model numbers SV3100, each box weighing 7.42 kilograms, and 62 boxes of Model number SV5100, each box weighing 11.23 kilograms, both models containing 3.72 grams of the pesticide product Fine Tune Biting Insect Lure (EPA Reg. No. 70909-3-74939) that arrived at the Port of Charleston, South Carolina, under entry number 97Y-01063252 on or about March 17, 2019.

Upon review of a copy of the label that was uploaded into the ACE Document Imaging System by Mallory as being the label on the imported boxes, the EPA determined that the boxes included the statement "See back panel for First Aid and Precautionary Statements" but did not include the information on the back panel. Pursuant to Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), a pesticide product is misbranded if the affixed label bears any statement, design, or graphic representation which is false or misleading in any particular. Pursuant to Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136(j)(1)(F), it is unlawful for any person in any State to distribute or sell to any person any device which is misbranded.

In response to the apparent violation of FIFRA, the EPA is issuing the Notice of Warning (NOW) to Mr. Bar-B-Q pursuant to FIFRA Section 9(c)(3), 7 U.S.C. § 136g(c)(3). The EPA has determined at this time that an NOW is the appropriate enforcement response for the company's apparent violation of FIFRA, provided that within 30 days of the receipt of this NOW, Mr. Bar-B-Q completes the following actions: (1) submit a signed certification from its CEO or other authorized official indicating that compliance with FIFRA has been achieved and identifying the actions taken to achieve compliance with the requirements set forth above; and (2) submit photographs of the pesticide product that are legible showing that the racquets have been properly relabeled to include the appropriate information as well as the EPA establishment number of the Mr. Bar-B-Q facility where the relabeling has been conducted. If this statement is not submitted and/or compliance is not achieved, the EPA may initiate a more formal

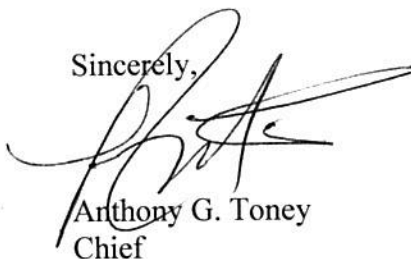
enforcement action which could include the assessment of a civil penalty. The signed certification and photographs should be submitted to:

Kanoelehua Ho  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street S.W.  
Atlanta, Georgia 30303-8960  
ho.kanoelehua@epa.gov  
(404) 562-9162

Since your company may be classified as a small business, you may want to review the Information Sheet "U.S. EPA Small Business Resources," which can be found on the internet at: <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>. This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act.

If you have any questions about this letter, and/or would like to discuss the above-stated findings by the EPA, and/or would like to discuss the above-stated findings by the EPA, please contact Kanoelehua Ho of the EPA Region 4 staff at (404) 562-9162.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Toney', is written over the word 'Sincerely,'.

Anthony G. Toney  
Chief

Chemical Safety and Enforcement Branch

cc: Jennifer Johnston, NCDA&CS